

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.06.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE V. DHANAPALAN

WRIT APPEAL NO.564 of 2001

1. T.N. Krishnamurthy
2. T.N. Jayagopal
3. T.G. Ranganathan
4. T.G. Sridhar
5. T.G. Devarajan

.. Appellants (Petitioners in WP.No.20311/2000)

vs.

The Tahsildar of Ambattur Taluk
at Ambattur, Chennai 600 058.

.. Respondent (Respondent in -do-)

Writ Appeal filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mr. Justice S. Jagadeesan dated 08.12.2000 made in W.P.No.20311 of 2000.

(WP.No.20311/2000 presented under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings No.Na.Ka.693/2000/A-1 dated 7.9.2000 quash the same and consequently forbear the respondent from issuing the impugned notice/circular allotting the petitioners land to different trespassers/encroacher of the Government lands and livind at Sivakudham and Adayalampattu Village, Ambattu Taluk, Thiruvallur District)

For appellants : Mr. A. Venkatesan

For respondent : Mr. M. Dhandapani

Addl. Govt., Pleader

JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM, J.)

The above writ appeal has been filed against the order of the learned single Judge dated 08.12.2000 made in W.P.No.20311 of 2000, in and by which the learned Judge, after considering the claim of both parties, dismissed the writ petition with liberty to the petitioners to approach the civil Court for appropriate relief.

2. Heard the learned counsel for the appellants as well as the learned Additional Government Pleader for the respondent.

3. The subject matter relates to six acres of land in Survey No.105/2. Though the writ petitioners claim that they are in possession of the said land, in the counter affidavit filed by the Department before the learned Judge, it is stated that portion of the land in Survey No.105/2 was allotted as an alternate site to those who have been evicted for the construction of the bridge measuring an extent of one acre is in nobody's possession and physical enjoyment. Again in para 15 of their counter, the respondent has stated that the portion of the land in gramamatham Survey No.105/2 of Adayalampattu Village, which was shown as alternate site is not in actual physical possession of the petitioners and therefore proceedings under the Land Encroachment Act need not be initiated. After noting the specific stand of the Tahsildar, Ambattur Taluk and the claim of the petitioners, the learned Judge, rightly permitted the petitioners to file a civil suit before appropriate Court. It is not in dispute that disputed questions of fact, such as possession of property cannot be gone into in writ proceedings. In such circumstances, we are in entire agreement with the conclusion arrived at by the learned Judge. Accordingly, the writ appeal fails and the same is dismissed. No costs.

kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Tahsildar of Ambattur Taluk
at Ambattur
Chennai 600 058.

2 cc To Mr.A.Venkatesan, Advocate, SR.25161.
1 cc To The Government Pleader, SR.25136.

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JRG (CO)
RVL 21.06.2006